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PLANNING & DEVELOPMENT SERVICES DEPARTMENT REPORT

HEARING DATE: October 31, 2002

TO: Orange County Zoning Administrator

FROM: Current Planning Services Division

SUBJECT: Public Hearing on Planning Application PA02-0110

PROPOSAL: Request for approval of a variance to enclose an existing deck in-order to create a music room 5 feet from the rear property line instead of the required 20 feet from the rear yard setback (as determined by Zoning Code Section 7-9-128.2). The existing deck is located 5 feet from the rear property line, permitted by PA94-0175.

LOCATION: 7 Emerald Bay, Unincorporated Laguna Beach within the 5th Supervisorial District.

APPLICANT: Louis Welch, owner
Scott Laidlaw, applicant

STAFF CONTACT: James Thue, Project Manager
Phone: (714) 834-2179 FAX: (714) 834-4652

SYNOPSIS: Current Planning Services Division recommends Zoning Administrator approval of PA 02-0110 subject to findings and conditions.

BACKGROUND:

The project site is located in Emerald Bay and is zoned R1 "Single-Family Residence". The original structure was likely constructed in the 1950's like many properties in the Emerald Bay Community. Site Plan SP91-0102P includes VA91-024P and CD91-011P, which were approved in 1991 to permit the demolition of an existing single-family dwelling and the construction a larger single-family dwelling. Variance VA91-024P was approved for construction of a larger single-family dwelling 5.8 feet from the front property line and 9.6 feet from the rear property line. Coastal Development Permit CD91-011 was approved to permit the work to be done within the coastal zone. The home was demolished, but the new single-family dwelling was never constructed and after the permit expired in 1993 the site was left vacant.

In 1995 a new owner applied for a variance to construct a single-family dwelling. Planning Application PA94-0175 was approved February 23, 1995 for a Variance and Coastal Development Permit to allow the construction of a new single-family dwelling within the required setback areas. The variance allowed the habitable structure to be located 12.6 feet from the front property line and 20 feet from the rear property

line. The Planning Application also allowed for grading in excess of 500 cubic yards and over-height walls within 15 feet of the rear property line.

This Planning Application is for a Variance to the Zoning Administrator. The applicant is requesting the approval of a variance in-order to enclose an existing deck in the rear setback area to create a music room.

SURROUNDING LAND USE:

The site is zoned R1 “Single-family Residence” (CD) Coastal Development District. The project is within the Emerald Bay Local Coastal Program. All surrounding properties are also zoned R1(CD) and the properties are developed with single-family residences. A Coastal Development Permit is not required because the proposed addition is less than 10% of the total floor area of the existing structure and is therefore exempt by Section 7-9-118.5 of the Orange County Zoning Code.

REFERRAL FOR COMMENT AND PUBLIC NOTICE:

A Notice of Hearing was mailed and posted as required by law. A copy of the planning application and a copy of the proposed site plan were distributed to the Emerald Bay Homeowner’s Association. The Emerald Bay HOA approved the proposal on August 13, 2002. As of the writing of this staff report, no objections to the project have been received.

CEQA COMPLIANCE:

Pursuant to the California Environmental Quality Act (CEQA), the proposed project is Categorically Exempt from the requirements (Class 1 & 5). Appendix A contains the required CEQA findings.

DISCUSSION/ANALYSIS:

The approval of Planning Application PA94-0175 permitted the construction of a 4,730 square foot single-family dwelling. Grading was performed on the hillside to make way for a multileveled structure to better utilize the property’s existing topography. The dwelling unit was approved at 5 feet from the front property line instead of the required 12.6’ (as determined by Zoning Code Section 7-9-128.4) and 20 feet from the rear property line instead of the required 25’ (as determined by 7-9-128.2). The garage in the rear was approved at 5 feet from the property line with a deck above the garage.

The existing deck above the garage is located approximately 5 feet from the rear property line. The applicant is proposing to enclose this deck to create a music room. The interior glass block wall will be demolished and replaced with a standard framed wall. The exterior wall will run the length of the addition and will include pocket-sliding windows. A deck on the level above will be expanded. The new portion will measure approximately 22’7” long by 7’4” wide over the proposed music room addition. A detailed set of project plans is included in Exhibit 2.

Although the existing deck is already 5’ from the rear property line, when the deck is enclosed it will cause the dwelling unit to encroach into the existing 20’ rear yard setback. Therefore, this proposal is requesting a rear yard setback variance from the required 20’ setback to a 5’ rear yard setback. Expansion on this lot is limited due to the CC&R’s height limitations, the steep slope, as well as the shallow building site.

CONCLUSION AND SUMMARY:

The Emerald Bay CC&R’s permit front and rear setbacks of only 5 feet while the County’s R1 zoning standard for front and rear setbacks is much greater. Staff would also point out that before any home can be built, the Emerald Bay Community Association conducts one or more public meetings on each new proposal. The Emerald Bay Community Association approved this proposal on August 13, 2002.

Zoning Code Section 7-9-150.3(e)(2), Variances, states that in order for an approval of a variance to be granted, the following findings must be made:

- A. Special Circumstances. There are special circumstances applicable to the subject building site which, when applicable zoning regulations are strictly applied, deprive the subject building site of privileges enjoyed by other property in the vicinity and subject to the same zoning regulations.
- B. No Special Privileges. Approval of the application will not constitute a grant of special privileges, which are inconsistent with the limitations placed upon other properties in the vicinity and subject to the same zoning regulations when the specified conditions are complied with.

Staff is of the opinion that the rear yard setback variance is typical of previously approved proposals throughout Emerald Bay. Additionally, the prior planning application permitted the garage to be constructed 5 feet from the rear property line. This addition expands upward on the existing setback. The rear yard variance will not pose a privacy issue with any other property owners because there is no neighbor to the immediate rear of the property.

RECOMMENDED ACTION:

Current Planning Services Division recommends the Zoning Administrator:

- a. Receive staff presentation and public testimony as appropriate; and,
- b. Approve Planning Application PA 02-0110 for a variance subject to the attached Findings and Conditions of Approval.

Respectfully submitted

Chad G. Brown, Section Chief
CPSD/Site Planning Section

JJT

ATTACHMENTS:

- Appendix A. Recommended Findings
- Appendix B. Recommended Conditions of Approval
- Appendix C. Site Photo

EXHIBITS:

1. Applicant's Letter of Explanation
2. Project Plans

APPEAL PROCEDURE:

Any interested person may appeal the decision of the Zoning Administrator on this permit to the Orange County Planning Commission within 15 calendar days of the decision upon submittal of required documents and a filling fee of \$245.00 filed at the Development Processing Center, 300 N. Flower St., Santa Ana.